

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 245 be amended to read as follows:

- 1 Page 1, delete lines 1 through 15.
- 2 Delete page 2.
- 3 Page 3, delete lines 1 through 3, begin a new paragraph and insert:
- 4 "SECTION 1. IC 8-1-1.1-5.5 IS ADDED TO THE INDIANA
- 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 6 [EFFECTIVE JULY 1, 2009]: **Sec. 5.5. (a) After June 30, 2009, the**
- 7 **counselor shall have jurisdiction over the following:**
- 8 (1) All duties and responsibilities exercised by the
- 9 commission's consumer protection division before July 1,
- 10 2009, with respect to telecommunications providers.
- 11 (2) The responsibilities of the commission under IC 8-1-2.9 to:
- 12 (A) approve a telecommunications provider's petition to
- 13 provide caller ID service; and
- 14 (B) approve either per-call or per-line blocking of caller ID
- 15 service for law enforcement and crisis intervention
- 16 agencies;
- 17 before July 1, 2009.
- 18 (b) As necessary to fulfill its duties under this section with
- 19 respect to telecommunications providers, the counselor may
- 20 exercise any power available to commission under IC 8-1-2 with
- 21 respect to public utilities, including the power to investigate a
- 22 complaint filed by a consumer against a telecommunications
- 23 provider."
- 24 Page 4, line 39, after "enabled" insert "**retail**".
- 25 Page 5, delete lines 8 through 42.
- 26 Delete pages 6 through 7.
- 27 Page 8, delete line 1.
- 28 Page 11, line 37, after "enabled" insert "**retail**".
- 29 Page 12, line 15, delete "The" and insert "**Except as otherwise**
- 30 **provided under IC 8-1-2-5, the**".
- 31 Page 13, line 17, delete "A" and insert "**Subject to subsection (h),**

1 a".

2 Page 13, line 23, after "increase" insert **"in the flat monthly rate"**.

3 Page 14, line 9, delete "subsection (e)," and insert **"subsections (e)**
4 **and (h),"**.

5 Page 16, between lines 3 and 4, begin a new paragraph and insert:

6 **"(h) If, at any time during the rate transition period, the**
7 **commission determines in accordance with IC 8-1-2-113 that an**
8 **emergency exists, the commission may act under IC 8-1-2-113 to**
9 **temporarily alter, amend, or suspend the limits on the flat monthly**
10 **rate increases set forth in subsections (c) and (d) if necessary to**
11 **maintain a provider's financial integrity and ability to provide**
12 **adequate basic telecommunications service. The commission shall**
13 **reimplement the limits on flat monthly rate increases, as set forth**
14 **in subsections (c) and (d), when the commission is satisfied the**
15 **emergency no longer exists."**

16 Page 16, line 39, after "actions." insert **"This subsection does not**
17 **affect the commission's authority under IC 8-1-2-5."**

18 Page 17, line 5, delete "47 U.S.C. 252(e);" and insert **"47 U.S.C.**
19 **252(e), including the authority to establish service quality metrics**
20 **and liquidated damages;"**.

21 Page 17, line 8, delete "or".

22 Page 17, line 12, delete "article." and insert **"article; or"**.

23 Page 17, between lines 12 and 13, begin a line block indented and
24 insert:

25 **"(6) the commission's authority to resolve an interconnection**
26 **dispute between providers under the expedited procedures set**
27 **forth in 170 IAC 7-7."**

28 Page 18, line 1, delete "hearing;" and insert **hearing, unless:**

29 **(A) the commission determines that an emergency exists**
30 **that requires the commission or a provider to take**
31 **immediate action to:**

32 **(i) prevent injury to the business or interests of the**
33 **citizens of Indiana; or**

34 **(ii) maintain a provider's financial integrity and ability**
35 **to provide adequate basic telecommunications service;**

36 **(B) the commission is authorized under IC 8-1-2 to adopt**
37 **a particular rule or issue a particular order without the**
38 **necessity of a hearing; or**

39 **(C) after receiving notice of the commission's proposed**
40 **action, all parties to a proceeding consent to the**
41 **commission taking action without a hearing; and"**.

42 Page 18, delete line 2.

43 Page 19, between lines 4 and 5, begin a new paragraph and insert:

44 **"(e) This section does not affect the commission's authority**
45 **under IC 8-1-2-5."**

46 Page 21, line 28, delete "do either of the following:".

47 Page 21, line 29, delete "(1) Renegotiate" and insert **"renegotiate"**.

- 1 Page 21, run in lines 28 through 29.
- 2 Page 21, delete lines 32 through 38.
- 3 Page 22, line 17, delete "chapter:" and insert "**chapter, except as**
- 4 **otherwise provided in this subsection:**".
- 5 Page 23, line 6, delete "Perform" and insert "**After June 30, 2009,**
- 6 **perform**".
- 7 Page 23, line 17, delete "Require" and insert "**After June 30, 2009,**
- 8 **require**".
- 9 Page 23, line 18, delete "commission, not more often than
- 10 quarterly," and insert "**commission on an annual basis, or more**
- 11 **frequently at the option of the provider,**".
- 12 Page 24, between lines 19 and 20, begin a new line block indented
- 13 and insert:
- 14 "**(11) Perform the commission's duties under IC 8-1-2-5 with**
- 15 **respect to interconnection.**".
- 16 Page 24, line 21, delete "division of consumer protection of the" and
- 17 insert "**office of utility consumer counselor created by**
- 18 **IC 8-1-1.1-2,**".
- 19 Page 24, delete line 22.
- 20 Page 24, line 23, delete "the division's authority under IC 4-6-9,".
- 21 Page 24, line 27, delete "involving the investigation and" and insert
- 22 "**with respect to telecommunications providers.**".
- 23 Page 24, delete lines 28 through 29.
- 24 Page 24, delete lines 36 through 38.
- 25 Page 26, between lines 23 and 24, begin a new paragraph and insert:
- 26 "SECTION 27. IC 8-1-2.6-16 IS ADDED TO THE INDIANA
- 27 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 28 [EFFECTIVE UPON PASSAGE]: **Sec. 16. (a) As used in this section,**
- 29 **"payphone service provider" means an entity, other than an**
- 30 **incumbent local exchange carrier, that owns and operates:**
- 31 **(1) public or semipublic pay telephones; or**
- 32 **(2) pay telephones used to provide telephone service in**
- 33 **correctional institutions.**
- 34 **(b) Notwithstanding any other statute, the commission shall**
- 35 **retain jurisdiction to establish just and reasonable rates that may**
- 36 **be charged by an incumbent local exchange carrier to a payphone**
- 37 **service provider. Rates established under this section must be:**
- 38 **(1) based on the costs incurred by the incumbent local**
- 39 **exchange carrier to provide the service;**
- 40 **(2) consistent with the requirements of 47 U.S.C. 276;**
- 41 **(3) nondiscriminatory; and**
- 42 **(4) consistent with the pricing guidelines for payphone service**
- 43 **providers established by the Federal Communications**
- 44 **Commission.**".
- 45 Page 31, line 21, after "chapter," insert "**office" refers to the office**
- 46 **of utility consumer counselor created by IC 8-1-1.1-2.**".
- 47 Page 31, delete lines 22 through 23.

- 1 Page 32, line 5, delete "division;" and insert **"office;"**.
- 2 Page 32, line 7, delete "division." and insert **"office."**.
- 3 Page 32, line 14, delete "division" and insert **"office"**.
- 4 Page 32, delete lines 15 through 42.
- 5 Page 33, delete lines 1 through 15.
- 6 Page 60, line 20, delete "division of consumer protection of the
- 7 office of the" and insert **"office of utility consumer counselor created**
- 8 **by IC 8-1-1.1-2."**.
- 9 Page 60, delete line 21.
- 10 Page 61, line 8, delete "division of consumer protection of the office
- 11 of the" and insert **"office of utility consumer counselor created by**
- 12 **IC 8-1-1.1-2."**.
- 13 Page 61, delete line 9.
- 14 Page 64, delete lines 34 through 36.
- 15 Page 64, line 37, delete "Sec. 5. As used in this section," and insert
- 16 **"Sec. 4. As used in this chapter,"**.
- 17 Page 65, between lines 2 and 3, begin a new paragraph and insert:
- 18 **"Sec. 5. As used in this chapter, "office" refers to the office of**
- 19 **utility consumer counselor created by IC 8-1-1.1-2."**.
- 20 Page 66, line 18, delete "division;" and insert **"office;"**.
- 21 Page 66, line 19, delete "division" and insert **"office"**.
- 22 Page 66, line 23, delete "division." and insert **"office."**.
- 23 Page 66, line 30, delete "division" and insert **"office"**.
- 24 Page 84, line 18, delete "The" and insert **"Except as otherwise**
- 25 **provided in this chapter, the"**.
- 26 Page 85, line 37, delete "Determines, after conducting," and insert
- 27 **"Conducts"**.
- 28 Page 85, line 38, delete "chapter, that there are not at least two (2)
- 29 persons that:" and insert **"chapter to determine whether there is any**
- 30 **person that:"**.
- 31 Page 85, line 39, delete "provide" and insert **"provides"**.
- 32 Page 85, line 41, delete "intend" and insert **"intends"**.
- 33 Page 86, line 3, delete "Holds" and insert **"Not earlier than ninety**
- 34 **(90) days after the deadline specified under section 7(b)(2) of this**
- 35 **chapter for all communications service providers to respond to the**
- 36 **political subdivision's inquiry under section 7 of this chapter, hold"**.
- 37 Page 87, line 2, delete "determines, after conducting" and insert
- 38 **"conducts"**.
- 39 Page 87, line 3, delete "chapter, that there are not at least two (2)"
- 40 and insert **"chapter to determine whether there is any person that:"**.
- 41 Page 87, delete line 4.
- 42 Page 87, line 5, delete "provide" and insert **"provides"**.
- 43 Page 87, line 7, delete "intend" and insert **"intends"**.
- 44 Page 87, line 22, after "must" insert **:**
- 45 **(1) inquire as to whether the person:**
- 46 **(A) provides broadband service; or**
- 47 **(B) intends to provide broadband service not later than**

three (3) months after the date of the political subdivision's written request under this subsection;

in the designated area; and

(2) require the person to respond to the inquiry described in subdivision (1) not later than sixty (60) days after the date the request under this subsection is postmarked.

(c) The political subdivision shall make available:

(1) for public inspection at the appropriate offices of the political subdivision; and

(2) at the public hearing required under section 5(c)(2) of this chapter;

a written summary of the results of the inquiry conducted under this section. However, the summary required under this subsection must not reveal any confidential or proprietary business plans or other confidential information reported by a person under this section. The political subdivision shall exercise all necessary caution to avoid disclosure of confidential information reported by a person under this section, including the redaction of confidential information from the summary."

Page 87, delete lines 23 through 42.

Page 88, delete lines 1 through 14.

Page 90, between lines 6 and 7, begin a new paragraph and insert:

"Sec. 11. Notwithstanding section 1(b)(2) and 1(b)(3) of this chapter, after June 30, 2009, a political subdivision that provides broadband service in an area in the political subdivision's jurisdiction in accordance with this chapter may provide:

(1) value added services providing text, graphic, video, or audio program content for a purpose other than transmission; or

(2) video programming or other programming described in section 1(b)(3) of this chapter;

through the same facilities, equipment, or technology used by the political subdivision to provide broadband service under this chapter.

Sec. 12. (a) This section applies to a political subdivision that controls, owns, or otherwise has an interest in any facilities, equipment, or technology that may be used to provide communications service.

(b) This chapter does not prohibit a political subdivision described in subsection (a) from entering into an agreement at any time with another person to allow the other person to use the political subdivision's facilities, equipment, or technology to provide communications service, including any services described in section 11 of this chapter, to an area in the political subdivision's jurisdiction. However, a political subdivision that enters into an agreement under this section shall not be responsible for:

(1) determining the content or programming offered as part

- 1 **of the communications service provided through the political**
 2 **subdivision's facilities, equipment, or technology;**
 3 **(2) billing, advertising, or other operational functions**
 4 **associated with the communications service provided through**
 5 **the political subdivision's facilities, equipment, or technology;**
 6 **or**
 7 **(3) otherwise providing services directly or indirectly to retail**
 8 **customers."**
 9 Page 92, line 27, delete "'division" refers to the division of" and
 10 insert "'office" refers to the office of utility consumer counselor
 11 **created by IC 8-1-1.1-2."**
 12 Page 92, delete lines 28 through 29.
 13 Page 93, delete lines 2 through 10.
 14 Page 93, line 11, delete "(g)" and insert "**(f)**".
 15 Page 93, line 12, delete "division" and insert "**office**".
 16 Page 93, line 12, delete "2009:" and insert "**2009, take any action**
 17 **necessary**".
 18 Page 93, delete lines 13 through 14.
 19 Page 93, run in lines 12 through 15.
 20 Page 93, line 18, delete "(h)" and insert "**(g)**".
 21 Renummer all SECTIONS consecutively.
 (Reference is to SB 245 as printed January 12, 2006.)

Senator HERSHMAN